IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1823 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE M.R.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

SOMABHAI FULABHAI PATEL

Versus

RAVJIBHAI KALIDAS AMIN

Appearance:

1. Special Civil Application No. 1823 of 2004

MR MTM HAKIM for Petitioner No. 1-1/4/5

..... for Respondent No. 1-4

CORAM : HON'BLE MR.JUSTICE M.R.SHAH

Date of decision: 02/07/2004

ORAL JUDGEMENT

Being aggrieved and dissatisfied with the order passed by the State Government, i.e. learned Special Secretary, Revenue Department (Appeals), State of Gujarat, Ahmedabad, dated 8.7.2003 in Revision Application No. 40 of 1999 in dismissing the same on the ground of limitation, the present Special Civil Application is filed by the petitioners for challenging

the said order.

2. On the basis of the consent decree passed by the Civil Court between the petitioners and the respondent No.1 in which the State Government was not a party, vide Entry No. 1169 dated 27.3.1991 the names of the petitioners were mutated and entered into record of rights. However, the said entry was cancelled by the Mamlatdar, Baroda vide his order dated 14.5.1991. Being aggrieved and dissatisfied with the order passed by the Mamlatdar dated 14.5.1991 for quashing and setting aside the entry No. 1169 dated 27.3.1991, the petitioners preferred an appeal before the Deputy Collector, Vadodara, being RTS Appeal No. 68 of 1991. The Deputy Collector, Vadodara by his judgment and order dated 27.6.1991 dismissed the said appeal confirming the order passed by the Mamlatdar, Vadodara dated 14.5.1991. Being aggrieved and dissatisfied with the judgment and order dated 27.6.1991 passed by the Deputy Collector in RTS Appeal No. 68/91, the petitioners preferred a revision application before the Collector, Vadodara, being RTS Revision Application No. 1/1992 the Collector, Vadodara vide his judgment and order dated 11.5.1992 dismissed the said revision application confirming the order passed by both the authorities below.

2.1. Being aggrieved and dissatisfied with the judgment and order passed by the Collector, Vadodara, dated 11.5.1992 passed by RTS Revision Application No. 1 of 1992 the petitioners preferred revision application before the State Government, i.e. learned Special Secretary, Revenue Department (Appeals), State of Gujarat, Ahmedabad on 11.10.1999, i.e. after a period of 7 years and 5 months. Hearing was fixed to decide as to whether to admit the revision application or not as the same was filed after a period of 7 years and 5 months, i.e., long after the period of limitation. At the time of hearing of the application on 22.4.2003 the learned advocate appearing on behalf of the petitioners asked for time before the revisional authority to file an affidavit explaining the delay and the hearing was fixed on 8.7.2003. On 8.7.2003, affidavit explaining the delay was not filed and considering the fact that there was no explanation whatsoever given for the delay in filing the revision application after a period of 7 years and 5 months, the learned Special Secretary, Revenue Department (Appeals), State of Gujarat, Ahmedabad by his judgment and order dated 8.7.2003 did not entertain the said revision application on the ground of limitation and dismissed the same.

3. Being aggrieved and dissatisfied with the judgment and order passed by the revisional authority, i.e., learned Special Secretary, Revenue Department (Appeals), State of Gujarat, Ahmedabad, dated 8.7.2003 in not entertaining the revision application on the ground of limitation, the present Special Civil Application has been filed under Article 226/227 of the Constitution of India.

4. Mr. Kharadi, learned advocate appearing on behalf of the petitioners has argued the matter on merits and has submitted that the orders passed by the authorities below are bad in eye of law and are required to be quashed and set aside. However, nothing has been mentioned in the petition with regard to explaining the delay in filing the revision application before the revisional authority, i.e. learned Special Secretary. Apart from the fact that there is no explanation given by the petitioner before the revisional authority, even before this Court also in the present Special Civil Application nothing has been mentioned with regard to cause of delay in filing the revision application after a period of 7 years and 5 months. In view of the fact that the revision application has been filed after a period of 7 years and 5 months and there is no explanation given whatsoever for cause of delay in preferring the revision application, the revisional authority was justified in not entertaining the revision application and dismissing the same on the ground of limitation. A person, who is either negligent and/or who does not approach the Court within a period of limitation and/or within a reasonable period, is not entitled to any relief on the ground of delay and latches. When there is no explanation given by the petitioners for delay in preferring the revision application after a period of 7 years and 5 months and the revision application is not entertained and dismissed, it cannot be said that the revisional authority has committed any error in dismissing the same and it does not call for any interference by this Court exercising the power under Article 226/227 of the Constitution of India.

5. Under the circumstances, there is no substance in the present Special Civil Application and the same is required to be dismissed. Accordingly, it is dismissed.

[M.R. Shah, J.]

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